

**UNITED STATES DISTRICT AND BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO**

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Cameron S. Burke
Court Executive/Clerk of Court

November 28, 2005

MEMORANDUM

TO: Members of the Bar and Public

FROM: Cameron Burke, Court Executive

SUBJECT: Amendments to Federal Rules of Procedure

The Supreme Court of the United States has approved the following amendments to the Federal Rules of Procedure. These amendments will take effect on December 1, 2005:

- Civil Rules: 6, 27, 45, Admiralty Rule B, and Admiralty Rule C
- Criminal Rules: 12.2, 29, 32.1, 33, 34, 45, and 59
- Bankruptcy Rules: 1007, 2002, 3004, 3005, 7004, 9001, 9006, and 9036. (Please recall that Interim Bankruptcy Rules were also adopted on October 14, 2005 by General Order 199 to address Bankruptcy Reform)

Please refer to the full text of the amendments on our web site to determine the scope of these changes.

Thanks for your consideration.

Summary of Amendments to Federal Rules of Procedure
Effective December 1, 2005

(Please Refer to the full text of the changes. This is only a summary)

[Civil Rules](#) (Link to full text)

Civil Rule 6 (Time)

Clarifies the method of counting the additional three days provided to respond if service is by mail or one of the methods in Civil Rule 5(b)(2)(C) or (D).

Civil Rule 27 (Depositions Before Action or Pending Appeal)

Corrects the outdated cross-reference to former Civil Rule 4(d).

Civil Rule 45 (Subpoena)

Requires that a deposition subpoena state the manner for recording testimony.

Admiralty Rule B (In Personam Actions: Attachment and Garnishment)

Fixes the time for determining whether a defendant is "found" in the district at the time the verified complaint and the accompanying affidavit are filed.

Admiralty Rule C (In Rem Actions: Special Provisions)

Technical amendments that correct amendments made in 2000.

[Criminal Rules](#) (Link to full text)

Criminal Rule 12.2 (Notice of an Insanity Defense; Mental Examination)

Authorizes a court to exclude evidence on defendant's mental condition if the evidence is not timely disclosed or if the defendant fails to submit to an examination.

Criminal Rule 29 (Motion for a Judgment of Acquittal), **Criminal Rule 33** (New Trial), and **Criminal Rule 34** (Arresting Judgment)

Court may extend time for filing the designated motion so long as the motion for extension was filed within the initial seven-day period.

Criminal Rule 45 (Computing and Extending Time)

Conforming amendments consistent with the proposed amendments to **Criminal Rules 29, 33, and 34**.

Criminal Rule 32.1 (Revoking or Modifying Probation or Supervised Release)
(extends the right of allocution to a person in a revocation or modification hearing)

New Criminal Rule 59 (Matters Before a Magistrate Judge)

Sets out procedures for a district judge to review dispositive and nondispositive decisions by a magistrate judge. The proposed amendments are intended to parallel Civil Rule 72.

[Bankruptcy Rules](#) (Link to full text)

Bankruptcy Rule 1007 (Lists, Schedules and Statements; Time Limits)

Requires the debtor to submit with the petition a list of the names and addresses of each entity entitled to receive notice of the bankruptcy filing)

Bankruptcy Rule 2002 (Notice to Creditors, Equity Security Holders, United States, and United States Trustee)

Facilitates transmission of electronic notices to creditors.

Bankruptcy Rule 3004 (Filing of Claims by Debtor or Trustee) and

Bankruptcy Rule 3005 (Filing of Claim, Acceptance, or Rejection by Guarantor, Surety, Indorser, or Other Codebtor)

Conforming amendments to § 501 of the Bankruptcy Code.

Bankruptcy Rule 7004 (Process; Service of Summons; Complaint)

Authorizes the clerk to issue a summons electronically. Clarifies that debtor's attorney must be served with the summons and complaint filed against the debtor.

Bankruptcy Rule 9001 (General Definitions)

Adds definition of "Notice Provider."

Bankruptcy Rule 9006 (Time)

Conforms to proposed amendments to **Civil Rule 6(e)** concerning time-counting provisions.

Bankruptcy Rule 9036 (Notice by Electronic Transmission)

Deletes requirement that the sender of electronic notice receive confirmation that the notice was received. The proposed amendment clarifies that notice is complete upon its transmission.
